

BLACK HILLS STATE UNIVERSITY

Policy and Procedures Manual

SUBJECT: Freedom of Speech and Use of Institutional Facilities and Grounds for Expression & Demonstration

NUMBER: 9:3

Office: Office of Public Safety

Source: [Request Form for Expressive Activity](#); [SDBOR Policy 6:13](#); [Student Union Room Rates/Room Request Form](#)

1. Purpose

This policy and its procedures set forth the guidelines for freedom of speech and use of institutional facilities and grounds at Black Hills State University for expressive activities by non-affiliated parties. Black Hills State University (BHSU) supports the freedoms of speech and assembly guaranteed by the Constitution (hereinafter “expressive activity”). BHSU ensures that these freedoms are respected without interfering with the rights of others, including the right of students to receive an education without undue interference. This is in accordance with South Dakota Board of Regents (SDBOR) policy 6:13.

2. Policy

- a. University facilities and grounds embody investments by students and taxpayers to advance the educational, research and service missions of BHSU. They are not open to the public for assembly, speech, or other activities as are the public streets, sidewalks, parks or seats of government. University facilities and grounds are selected, designed and operated to balance aesthetic and utilitarian considerations, to provide settings conducive to learning and research and to provide venues to expose students to cultural activities. Consequently, the ability of students, employees, student organizations, and their invited guests (hereinafter collectively and individually “affiliated parties”) to access and utilize campus grounds differ from those who are not affiliated parties

(hereinafter “non-affiliated parties”). This policy governs the use of campus grounds by non-affiliated parties for purposes of engaging in expressive activity.

- b. The distribution of flyers on vehicles is strictly prohibited. Patrons of the University are not to be approached physically or verbally in a manner that impedes their normal progress.
- c. Non-affiliated parties that disrupt campus activities or classrooms or otherwise interfere with the normal operations of the University will be asked to leave campus immediately. Violence or damage to property will not be tolerated. BHSU reserves the right to eject any person or persons from the premises for disrupting or interfering with campus operations in violation of this policy, upon the exercise of the authority through any agent or police personnel.
- d. If any individual believes a registered or unregistered non-affiliated party is disrupting campus activities or interfering with the normal operations of the University, they should call Public Safety by calling 605-641-6988.
- e. Non-affiliated parties requesting to enter campus to engage in expressive activity will be required to hold harmless and indemnify the State of South Dakota, the SDBOR, BHSU, their officers, agents, or employees from and against any and all actions, suits, damage, liability or other proceedings that may arise as a results of the negligence, misconduct, error or omission of the State of South Dakota, the SDBOR, BHSU their officers, agents or employees.
- f. Non-affiliated parties expressly assume full responsibility for any and all damages or injuries which may result to any person or property by reason of, or in connection with their use of the grounds/facilities pursuant to this policy.
- g. BHSU will be excused from performing any obligation or undertaking under this policy in the event, and for so long as, the performance of any such obligation is prevented, delayed or hindered by a natural disaster (sometimes referred to as “Force Majeure” or “an act of God”), fire, earthquake, flood, explosion, actions of the elements, war, insurrection, strikes, walk-outs, action of labor unions, condemnation of laws, orders of government or civilian and military authorizations, or any other cause not within the reasonable control of

the University, which will render the performance of its obligations under this policy impracticable.

- h. Nothing in this policy shall prohibit university students, faculty, administrators, and other employees to spontaneously and contemporaneously assemble, as long as their conduct is not unlawful and does not materially and substantially disrupt the functioning of the institution. Advance notice to the Department of Public Safety and written authorization are required for events that:
 - i. Are reasonably expected to attract a large crowd (expected attendance over 150 persons) or that otherwise necessitate prior coordination on the part of the university (i.e. a large-scale event per SDBOR policy).
 - ii. Installation of any structure, such as a tent, stage, scaffold, bleacher, bounce house, or carnival-style ride, or
 - iii. Outdoor amplified sound, including but not limited to bullhorns, Bluetooth speakers, etc.

3. Procedures

- a. Non-affiliated parties who desire to come on to campus to engage in expressive activity must complete the [Request Form for Expressive Activity](#), which should be completed at least three (3) days prior to the time at which the non-affiliated party desires to come on to campus to engage in expressive activity. Additionally, all non-affiliated parties engaging in expressive activity on campus must adhere to the provisions below.
 - i. A copy of the approved request form must be displayed or made immediately available upon request of BHSU personnel.
 - ii. No commercial activity, which includes activities that involve the exchange of goods or services for valuable consideration and speech that relates solely to the economic interest of the speaker and audience and proposes a commercial transaction, will be permitted by non-affiliated parties engaging in expressive activity on campus.
 - iii. Expressive activities by non-affiliated parties will be limited to Monday through Friday, during the hours of 8:00 a.m. – 5:00 p.m. No expressive

activity by non-affiliated parties will be permitted during the first week of each new semester, the week prior to final exams, and the week of final exams.

iv. Outdoor areas on campus that aren't otherwise properly restricted are generally available for non-affiliated parties, who are otherwise in compliance with the provisions of this policy, to engage in expressive activity without paying a fee, so long as:

1. All applicable federal and state laws, city ordinances, and BHSU and SDBOR policies are followed;
2. Pedestrian and/or vehicular traffic is not impeded.
3. Instructional, research, service or administrative activities of the institution are not interfered with.
4. Meetings or events sponsored or conducted by BHSU, affiliated parties or other non-affiliated parties are not disrupted.
5. The area has not been previously reserved or scheduled for a particular function.
6. No sound amplification is used.

b. Once a request has been approved by the Director of Public Safety, the requestor will be notified and sent a copy of the approved request form. The Dean of Students and Associate VP of Facilities Services and Sustainability will be copied.

c. Approved requests will be submitted to the campus e-update by the Director of Public Safety to ensure BHSU faculty, staff and students are informed of approved on campus gatherings by nonaffiliated parties.

d. Select facilities or locations on campus may also be available for use by non-affiliated parties at rates published by BHSU.

i. [Student Union Room Rates/Room Request Form](#)

e. Non-affiliated parties that would like to distribute written material on campus must submit a copy of the material when submitting their [Request Form for Expressive Activity](#).

- i. Items distributed on University property are the responsibility of the non-affiliated party, and in no way imply or suggest any relationship with, or official sanction by, BHSU.
 - ii. The distribution of any item that would infringe upon, or in any way violate, a legal trademark or copyright will be prohibited. Exceptions will be granted only with the expressed written consent of the trademark or copyright holder.
 - iii. No individual may be forced to take materials from a non-affiliated party engaging in an expressive activity.
- f. A request form for expressive activity may be denied, and the University reserves the right to cancel or postpone any previously approved request form on one or more of the following grounds:
 - i. Conflict with a pre-existing reservation or planned use of the location that would unreasonably interfere with the event.
 - ii. Failure to comply with reasonable restrictions on signage, display, erection of structures, sound amplification restrictions, or other aspects of the expressive activity that would unreasonably interfere with the health or safety of persons, protection of property, access, traffic, or the peaceful, orderly operations of the campus.
 - iii. Inadequate notice for purposes of providing security, facilities, or other preparations necessary for the protection of persons and property.
 - iv. The reservation or request form is incomplete.
 - v. Failure to comply with any of the provisions of this policy.
- g. Non-affiliated parties wishing to appeal a denial may use the appeal process listed in [Board of Regents Policy 6:13](#).

4. Responsible Administrator

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

SOURCE: Approved by President Laurie Nichols on 10/5/2020; Revised 4/8/2021; Revised 2023.02.27