

3341-1-12 Ohio Public Policy on Principles of Free Speech

Applicability	All University Units
Responsible Unit	Office of the President
Policy Administrator	General Counsel

(A) Policy Purpose

This University policy affirms the public policy principles as set forth in Ohio Revised Code 3345.0215 which requires each public university in Ohio to adopt a policy on campus free speech that is consistent with and adheres to the principles set forth in R.C. 3345.0215.

(B) Policy Scope

The protections under R.C. 3345.0215, which are reflected in this policy, apply to all students, student groups, and faculty. The obligations under R.C. 3345.0215, which are reflected in this policy, apply to all employees (faculty and staff included).

(C) Definitions

“Faculty” or “faculty member” means any person, whether or not the person is compensated by the University, and regardless of political affiliation, who is tasked with providing scholarship, academic research, or teaching. For purposes of this policy, the term "faculty" includes tenured and nontenured professors, adjunct professors, visiting professors, graduate student instructors, and those in comparable positions, however titled. For purposes of this section, the term "faculty" does not include persons whose primary responsibilities are administrative or managerial unless the matter involves a course in which the person is the instructor of record.

"Student" means any person who is currently enrolled on a full-time or part-time basis at the University.

"Student group" means an officially recognized group at the University, or a group seeking official recognition, comprised of admitted students that receive, or are seeking to receive, benefits through the University.

(D) Policy Principles

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 division (E) of R.C. 3345.0215.
- (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.
- (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.

(E) 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 state institution's property to protect the free speech rights of students and faculty and preserve the use of the property for the advancement of the institution'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;
- (5) Content restrictions on speech that are reasonably related to a legitimate pedagogical purpose, such as classroom rules enacted by teachers.

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

(G) 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 1964, 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, the Age Discrimination in Employment Act, and the Age Discrimination Act of 1975 as addressed through its non-discrimination and Title IX policies.

(H) Violations of Policy by University Employee

(1) Reporting a Complaint

- (a) Students, student groups, or faculty may submit a complaint about an alleged violation of this policy by an employee of the University. A complaint can be submitted to the See It. Hear It. Report It. incident reporting portal at: <https://www.bgsu.edu/report-incident.html>.
- (b) A complaint must be reported within thirty (30) calendar days of the alleged violation. The complaint must provide the date of the incident, a description of the alleged violation, and the name of the University employee alleged to have violated the policy. Although an anonymous complaint is permitted, the University may have limited ability to investigate it and/or effectively address the complaint.

(2) Investigation and Hearing Process

- (a) A complaint alleging a faculty member violated this Policy will be investigated by the Office of the Provost. This includes an instructor of record engaged in instructional duties for a course that is the subject of a complaint. The Provost (or designee) will investigate the complaint and conduct a fair and impartial hearing regarding the alleged violation. If the hearing determines, by a preponderance of evidence, that this policy was violated, the Provost (or designee) shall determine the appropriate remedy to address the violation and prevent any further violation of the University policy. Potential disciplinary actions include, without limitation, oral reprimand, written reprimand, suspension or termination.
- (b) A complaint alleging a staff member violated this Policy will be investigated by the Office of Human Resources. The Chief Human

Resources Officer (or designee) will investigate the complaint and conduct a fair and impartial hearing regarding the alleged violation. If the hearing determines by a preponderance of evidence, that this policy was violated, the appointing authority for that staff member shall determine the appropriate remedy to address the violation and prevent any further violation of the University policy. Potential disciplinary actions include, without limitation, oral reprimand, written reprimand, suspension or termination.

(c) During the process, the faculty or staff respondent may have one individual of their choice to serve as their advisor. The advisor may not impede or interfere with the investigatory meeting. If the advisor is an attorney, the University requires at least 48 hours' notice be given to the investigator.

(I) Retaliation Prohibited

It is a violation of this Policy for any employee to retaliate against or take adverse action toward any person for submitting a complaint or participating in an investigation or hearing regarding an alleged violation of this Policy. Any person within the scope of this policy who engages in retaliation is subject to a separate charge of retaliation under this policy.

Equity Impact Statement: The policy has been assessed for adverse differential impact on members of one or more protected groups.

Registered Date: January 9, 2023